

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LANE MYERS,

Plaintiff,

v.

Case No. 1:22-cv-00748

CHRISTOPHER WREN, NICHOLAS
SMITH and UNKNOWN FRERIKS.

HON. Paul L. Maloney

Defendants.

Lane Myers
Pro Se
1583 Grange Road
Trenton, MI 48183
(313) 587-1880

Michael D. Homier (P60318)
Leslie A. Dickinson (P78850)
FOSTER, SWIFT, COLLINS & SMITH, PC
Attorneys for Defendants
1700 E. Beltline Avenue NE, Suite 200
Grand Rapids, MI 49525
(616) 726-2200

ANSWER & AFFIRMATIVE DEFENSES

Defendants, Christopher Wren, Nicholas Smith and Sgt. Freriks state as follows
for their Answer:

INTRODUCTION

I. The Parties to This Complaint

A. **ANSWER:** In answer to Paragraph I(A) of Plaintiff's Complaint,
Defendants state they are without sufficient knowledge or
information upon which to form a belief as to the truth or falsity
of the Plaintiff's contact information contained in said paragraph

and, therefore, neither admit nor deny same but leaves Plaintiff to its proofs.

- B. **ANSWER:** In answer to Paragraph I(B) of Plaintiff's Complaint, Defendant admits that the contact information for Defendants, in their official capacity, is correct. As for the remaining allegations, if any, Defendants state they are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the remaining allegations contained in said paragraph and, therefore, neither admit nor deny same but leaves Plaintiff to its proofs.

II. Basis for Jurisdiction

- A. **ANSWER:** In answer to Paragraph II(A) of Plaintiff's Complaint, Defendants state they are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the allegations contained in said paragraph and, therefore, neither admit nor deny same but leaves Plaintiff to its proofs.
- B. **ANSWER:** In answer to Paragraph II(B) of Plaintiff's Complaint, Defendants deny as untrue that they violated any federal constitutional or statutory right(s) including, but not limited to, the 1st, 4th, 5th and 14th Amendments as stated in Plaintiff's Complaint. Defendants state they are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the remaining allegations contained in said paragraph

and, therefore, neither admit nor deny same but leaves Plaintiff to its proofs.

C. **ANSWER:** N/A (no allegations contained herein).

D. **ANSWER:** In answer to Paragraph II(D), including subparts 1, 2, and 3, of Plaintiff's Complaint, Defendants deny as untrue that they violated any federal constitutional or statutory right(s) including, but not limited to, 42 USC section 1983 as stated in Plaintiff's Complaint. Defendants state they are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the remaining allegations contained in said paragraph and, therefore, neither admit nor deny same but leaves Plaintiff to its proofs.

III. Statement of Claim

A. **ANSWER:** In answer to Paragraph III(A) of Plaintiff's Complaint, Defendants state they are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the allegations contained in said paragraph and, therefore, neither admit nor deny same but leaves Plaintiff to its proofs.

B. **ANSWER:** In answer to Paragraph III(B) of Plaintiff's Complaint, Defendants state they are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the allegations contained in said paragraph and,

therefore, neither admit nor deny same but leaves Plaintiff to its proofs.

C. **ANSWER:** In answer to Paragraph III(C) of Plaintiff's Complaint, Defendants state they are without sufficient knowledge or information upon which to form a belief as to the truth or falsity of the allegations contained in said paragraph and, therefore, neither admit nor deny same but leaves Plaintiff to its proofs.

IV. Injuries

ANSWER:

N/A (no allegations contained herein).

V. Relief

ANSWER:

In answer to Paragraph V of Plaintiff's Complaint, Defendants deny the allegations contained therein and further denies that Plaintiff is entitled to any relief.

VI. Certification and Closing

ANSWER:

In answer to Paragraph VI of Plaintiff's Complaint, Defendants deny the allegations contained therein and state that Plaintiff's complaint is being presented to harass, needlessly increase the cost of litigation to Defendants, and is frivolous and not supported by existing law.

WHEREFORE, Defendants pray that a judgment of no cause of action be entered in its favor.

AFFIRMATIVE DEFENSES

Plaintiff will please take note that Defendants will rely upon the following affirmative defenses:

1. Defendants are entitled to summary judgment as Plaintiff's complaint fails to state a claim upon which relief can be granted.
2. Defendants are entitled to summary judgment as there are no material facts in dispute and defendant is entitled to judgment as a matter of law.
3. Plaintiff's claim is barred by any and all applicable statutory periods of limitations.
4. Plaintiff failed to mitigate its damages, if any damages have been suffered.
5. Defendants have no liability to Plaintiff as Defendants owed no duty to Plaintiff.
6. Defendants had legitimate reasons for the actions they took and for not taking any actions that Plaintiff now demands Defendants should have taken.
7. Plaintiff is barred, in whole or in part, by the doctrine of laches, waiver and/or estoppel.
8. Plaintiff's claims are barred in whole or in part because he failed to exhaust his administrative remedies and thus Plaintiff's claims are not ripe for review.
9. Plaintiff has unclean hands and is not entitled to any equitable relief requested.
10. Plaintiff has no protected property interest in using the Newaygo County Parks, nor is such alleged interest created by law.

11. Defendants are protected by immunities recognized by law, including sovereign immunity and qualified immunity.
12. Plaintiff does not have an unlimited right to access Newaygo County Parks.
13. Newaygo County's Park Ordinance and Rules are lawful and Constitutional.
14. Defendants reserve the right to alter, amend, modify, and/or supplement their affirmative defenses.

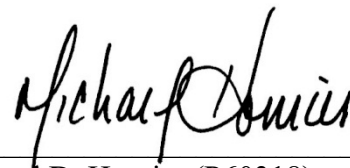
WHEREFORE, Defendants pray that a judgment of no cause of action be entered in its favor.

JURY DEMAND

Defendants, by and through their attorneys, Foster Swift Collins & Smith PC hereby rely on Plaintiff's jury demand, but only as to any damage claims in this matter. Defendants state that Plaintiff is not entitled to a jury trial as to any equitable or injunctive relief under the Seventh Amendment, FRCP 2, 38(a), and 28 USC. *See, e.g. Black v Boyd*, 248 F2d 156, 162 (6th Cir 1957).

Dated: September 12, 2022

By: _____



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